

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

ERYNN T. MESTAS,

Plaintiff,

vs.

Civ. No. 09-1172 - WJ/ACT

**STATE OF NEW MEXICO
ENVIRONMENT DEPARTMENT,
et al.,**

Defendants.

MEMORANDUM OPINION AND ORDER

THIS MATTER comes before the Court on the Defendants' Motion to Stay Discovery [Doc. 22]. Because the Court has no discretion on this matter, a response is not required.

Defendants have moved for dismissal of the claims against them based on, *inter alia*, the doctrine of qualified immunity. [Doc. 24] The qualified immunity defense protects governmental officials performing discretionary functions from liability as well as the burdens of trial and discovery. *Jiron v. City of Lakewood*, 392 F.3d 410, 414 (10th Cir. 2004); *Workman v. Jordan*, 958 F.2d 332, 336 (10th Cir. 1992) ("we reiterate that qualified immunity is not only a defense to liability but also entitlement to immunity from suit and other demands of litigation") (citing *Sieger v. Gilley*, 500 U.S. 226 (1991)). Indeed, when a motion based on qualified immunity is filed, a court has limited discretion on the issue of a stay of discovery, and should stay discovery until the court considers and determines the motion. *Workman*, 958 F.2d at 336.

The Court will stay this matter.

IT IS THEREFORE ORDERED that Defendants' Motion to Stay Discovery is granted and all discovery will be stayed pending the Court's disposition of the Motion to Dismiss, filed November 5, 2010 [Doc. 24].


ALAN C. TORGERSON
United States Magistrate Judge